

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

In Re: National Hockey League  
Players' Concussion Injury  
Litigation

MDL No. 14-2551 (SRN/JSM)

This Document Relates to ALL ACTIONS

**PRETRIAL ORDER NO. 1  
(Establishing Preliminary Procedures)**

This Order shall govern the practice and procedure in those actions that the Judicial Panel on Multidistrict Litigation (the "JPML") transferred to this Court in its Order of August 19, 2014 as well as all related actions originally filed, transferred or removed to this Court. This Order shall also apply to any "tag-along actions" later filed in, removed to or transferred to this Court. All such actions shall be referred to in this Order as the "MDL Cases."

**I. INITIAL CASE MANAGEMENT CONFERENCE**

The Court will hold an Initial Case Management Conference in these MDL Cases on **Thursday, September 18, 2014 at 1:00 p.m.** in Courtroom 7B of the Warren E. Burger Federal Building and United States Courthouse, 316 North Robert Street, St. Paul, Minnesota. All counsel are expected to appear in person. Attendance at the Initial Case Management Conference will not act as a waiver of objections to jurisdiction, venue or service of process.

In preparation for the Initial Case Management Conference and no later than **Thursday, September 11, 2014**, the parties shall prepare a submission to the Court (one submission for Plaintiffs and one submission for the Defendant) which addresses the following issues:

- A. An overview of the procedural status of all actual and potential MDL Cases;
- B. An overview of the status of discovery in all MDL Cases to date;

C. An overview of the status of any motions, orders or other events of import in the MDL Cases to date;

D. The status of any related state-court litigation;

E. A proposed case management order which addresses the timing of initial disclosures, the timing of fact and expert discovery, the quantity of written discovery, the number of proposed fact and expert depositions, a protocol for the preservation of, collection of and production of electronic discovery, stipulations regarding any matters, and the coordination with state court litigation, if any;

F. A description of any settlement efforts to date, including any proposals for mediation of these matters;

G. A proposed agenda for the Initial Case Management Conference;

H. A proposed leadership structure for Plaintiffs' counsel. Plaintiffs' counsel's recommendations to the Court shall be accompanied by each nominee's resume or curriculum vitae, educational background, licensing status, a description of relevant experience, and a certificate of good standing from the highest Court where the individual primarily engages in the practice of law. Each individual attorney or law firm recommended for a leadership position shall submit for the Court's *in camera* review a summary of the billing rates for the individuals who expect to participate in these MDL Cases. These *in camera* materials need not be filed on ECF but should be emailed or delivered to the Judge's chambers no later than **Thursday, September 11**. The appointment of all liaison and lead counsel shall be for a term of one year, subject to reappointment by the Court;

I. Whether a Master Complaint will be filed; and

J. A schedule of monthly status conferences to be conducted, either in person, or telephonically for the remainder of the 2014 calendar year and 2015 calendar year. If the parties agree that a given month's status conference is not necessary, they may so stipulate.

## **II. CONSOLIDATION**

These MDL Cases are consolidated for pretrial purposes only. Any "tag-along" actions later filed in, removed to or transferred to this Court, or directly filed in this Court, will automatically be consolidated with these MDL Cases without the necessity of further motions or orders. This consolidation, however, does not constitute a determination that these MDL Cases should be consolidated for trial, nor does it have the effect of making any person or entity a party to any action in which he, she or it has not been named, served or added in accordance with the Federal Rules of Civil Procedure.

## **III. SERVICE**

Prior to the Initial Case Management Conference, service of all papers relating to the Conference shall be made on counsel of record appearing in the MDL Cases. The docket is the official record of the service list. Plaintiffs' counsel shall designate a liaison, responsible for assuring service of this Order and all future Orders on any pro se parties. This provision of the Order does not alter the requirements for proper service of process set forth in the Federal Rules of Civil Procedure.

## **IV. EXTENSION OF TIME; STAY**

The defendant is granted an indefinite extension of time to respond to any pending

motion or to answer any properly served complaint until this Court sets a date by which the defendant shall so respond. Pending the Initial Case Management Conference and further orders of this Court, all outstanding discovery proceedings are hereby stayed. No further discovery shall be initiated until a comprehensive Case Management Order is entered by this Court.

## **V. PRIOR ORDERS**

Any orders, including protective orders and the like, previously entered by this Court or any Transferor Court, shall remain in full effect unless and until modified by this Court.

## **VI. MASTER DOCKET FILE**

Any pleading or paper shall be filed electronically according to this district's *CM/ECF Civil Manual For New Users*.<sup>1</sup> The Clerk of Court will maintain a master docket case under the style "In Re: National Hockey League Players' Concussion Injury Litigation" and the identification "MDL No. 14-2551." When a filing is intended to be applicable to all actions, this shall be indicated by the words "This Document Relates to ALL ACTIONS" and shall be filed electronically in 14-md-2551. When a filing is intended to apply to fewer than all cases, this Court's civil action number for each individual case to which the document(s) relate shall appear immediately after the words: "This Document Relates to . . ." and shall be filed electronically in each member case to which the document(s) applied. The following is a sample of the pleading style:

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<sup>1</sup> Available at [http://www.mnd.uscourts.gov/cmecf/reference\\_guides.shtml](http://www.mnd.uscourts.gov/cmecf/reference_guides.shtml)

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## **VII. FILING**

Any pleading or paper filed in any of the MDL Cases shall be filed electronically with the Clerk of this Court and not with the Transferor District Court.

## **VIII. DOCKETING**

When an action that properly belongs as part of the In re: National Hockey League Players' Concussion Injury Litigation is filed in this District of Minnesota or transferred here from another court, the Clerk of Court shall:

- A. File a copy of this Order in the separate file for such action, and
- B. Make an appropriate entry on the master docket sheet.

## **IX. APPEARANCES**

Counsel who appeared in a Transferor District Court prior to transfer by the JPML need not enter an additional appearance before this Court. Attorneys admitted to practice and in good standing in any United States District Court are admitted *pro hac vice* in this litigation. Association of local counsel is not required. Counsel in a newly filed or transferred action shall complete (1) the Electronic Case Filing System Attorney Registration Form ("Registration

Form”) , and (2) the Notice of Appearance form.<sup>2</sup> After completing the Registration Form, counsel will receive a CM/ECF log-in enabling them to electronically file the Notice of Appearance. Counsel appearing in this action are expected to familiarize themselves with all prior Court orders and proceedings, as well as the Local Rules of the District of Minnesota and this Court’s Practice Pointers.<sup>3</sup>

#### **X. PRESERVATION OF EVIDENCE**

All parties and their counsel are reminded of their duties to preserve evidence that may be relevant to these MDL Cases and to insure that the appropriate Preservation Orders are in place. All documents, data and other tangible items containing information potentially relevant to the subject matter of this litigation shall be preserved.

#### **XI. COMMUNICATIONS**

Unless otherwise ordered, counsel must communicate with the Court in writing, with courtesy copies to all counsel. Communications with the Court and submissions which are not to be filed with the Clerk may be sent to *Nelson\_Chambers@mnd.uscourts.gov*.

The Court DIRECTS the Clerk to send a copy of this Order to the Clerk of the Judicial Panel on Multidistrict Litigation, and counsel of record.

Dated: September 4, 2014

s/Susan Richard Nelson  
SUSAN RICHARD NELSON  
United States District Judge

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<sup>2</sup> Both forms are available at [http://www.mnd.uscourts.gov/FORMS/court\\_forms.shtml#attorneyforms](http://www.mnd.uscourts.gov/FORMS/court_forms.shtml#attorneyforms)

<sup>3</sup> Available at <http://www.fedbar.org/image-library/chapters/minnesota-chapter/minn-nelson.pdf>